REMARKS

Claims 1-23 are rejected. Claims 17, 21, and 22 have been amended. Claims 1-23 remain pending in the present application.

Support for the amendments to claims 17, 21, and 22 may be found in Applicant's specification at least in paragraph [0038] and Figure 2. Entry of the amendments is respectfully requested.

Rejections of the Claims Under 35 U.S.C. § 101

Claims 1-10 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses the rejection and requests reconsideration in view of the following remarks.

The Examiner states that a process may "qualify as patent eligible" under § 101 by positively reciting "the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state)." Claim 1 recites, in pertinent part, a computer-implemented method comprising "storing the programmatically determined cost of the resource usage by the organizational unit in a cost allocation database." Therefore, claim 1 recites a cost allocation database that is changed to a different state.

Claim 1 and its dependent claims 2-9 thus recite subject matter satisfying § 101. Accordingly, withdrawal of the rejection under § 101 is respectfully requested.

Rejections of the Claims Under 35 U.S.C. § 103(a)

Claims 1-9, 17, 19-21, and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Hilali et al. (U.S. Patent No. 6,086,618, hereinafter "Al-Hilali") in view of Fackre et al. (U.S. Patent Application Publication No. 2002/0030575, hereinafter

"Fackre"). Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Hilali in view of Fackre and further in view of Applicant's Admitted Prior Art (AAPA). Claims 10, 16, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Al-Hilali in view of Fackre and AAPA and further in view of Morgan et al. (U.S. Patent No. 5,799,286, hereinafter "Morgan"). Applicant respectfully traverses the rejections and requests reconsideration in view of the following remarks.

To establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest all the limitations recited in the claims.

For example, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method comprising "determining a cost allocation method for each of the plurality of system resources from a plurality of available cost allocation methods, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs" in combination with the remaining features of claim 1.

In rejecting claim 1, the Examiner argues that, in disclosing cost equations (e.g., col. 4, lines 4-9; col. 9, lines 30-45), Al-Hilali teaches or suggests a plurality of available cost allocation methods. Applicant respectfully disagrees. At col. 10, lines 21-49, Al-Hilali discusses the construction of cost equations:

> In step 104, resource usage measurements are made for each transaction in each resource used. The "cost" in terms of each of the relevant system resources is determined for each transaction. In other words, any time a particular transaction is performed, it will use or consume a certain amount of system resources and the step of making the resource usage measurements is determining those costs on a per transaction basis. Generally speaking, the behavior of users can eventually be reduced to transaction rates of the various defined transaction. One way of generating the system resource usage measurements for individual

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transactions will be shown hereafter in connection with the discussion of the flow chart in FIG. 5.

Once the resource usage measurements have been determined for each transaction in step 104, total cost equations may be developed for each pertinent system resource at step 106. Such cost equations will take as a component any resource usage attributed to a particular transaction. In other words, each relevant system resource will have a cost equation that takes as input the transaction rate of all relevant transactions contributing to the use of that particular system resource. All defined transactions are represented in the cost equation for a given system resource unless executing the transaction does not use the resource at all. The more transactions that are defined, the more complex the cost equation tends to be since it may have many more components.

Therefore, each of Al-Hilali's cost equations is essentially a <u>sum</u> of the various costs associated with the use of a system resource. As Al-Hilali further explains in col. 10, lines 56-64, the cost equations are used to determine an <u>aggregate</u> or <u>total</u> system resource usage, not an allocation of costs. Applicant respectfully submits that a method for determining <u>a sum of costs</u> is far removed from a method of <u>dividing a cost</u>.

In col. 10, lines 21-29, Al-Hilali discloses that any cost division is performed as a part of a <u>measurement step</u>, not as a component of one of Al-Hilali's cost equations:

In step 104, resource usage measurements are made for each transaction in each resource used. The "cost" in terms of each of the relevant system resources is determined for each transaction. In other words, any time a particular transaction is performed, it will use or consume a certain amount of system resources **and the step of making the resource usage measurements is determining those costs on a per transaction basis.**

Furthermore, Al-Hilali discloses only <u>one</u> way of dividing a cost: <u>per transaction</u> (see, e.g., col. 10, lines 24-28; col. 12, lines 27-33). Thus, Al-Hilali does not teach or suggest determining a cost allocation method for each of the plurality of system resources <u>from a plurality of available cost allocation methods,</u> wherein <u>each</u> of the plurality of available cost allocation methods defines a <u>different</u> way of dividing one of the determined costs.

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The Examiner further argues that Fackre discloses the limitation "wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs." Fackre discloses techniques for tracking various costs associated with a user's browsing activity or time spent on particular web sites or local CD ROMs (see, e.g., paragraphs [0007] and [0008]). In paragraph [0009], Fackre discloses that the "soft costs" of lost productivity may be quantified and allocated to users along with the "hard costs" of subscriptions. The Examiner seems to argue that the "soft costs" and "hard costs" are equivalent to a plurality of available cost allocation methods or to different ways of dividing one of the determined costs. Applicant respectfully disagrees. Fackre's "soft costs" and "hard costs" are actually two different <u>costs</u> rather than two different <u>cost allocation methods</u>. Although Fackre discusses a cost allocation method in paragraph [0032], Fackre discloses only <u>one</u> cost allocation method. Therefore, Fackre does not teach or suggest the limitation "wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs."

Therefore, Applicant respectfully submits that claim 1 is patentably distinct from the cited references. For at least the same reasons, Applicant submits that independent claims 11, 17, and 23 are patentably distinct from the cited references.

Regarding claim 5, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method "wherein the plurality of available cost allocation methods comprises a per usage time cost allocation method" in combination with the remaining features of claim 5 and the base claim 1. In rejecting claim 5, the Final Office Action cites col. 4, line 64 through col. 5, line 4 of Al-Hilali. At the cited location, Al-Hilali discloses <u>measuring</u> different types of resource usage such as CPU usage, disk access time, memory usage, etc., but not <u>cost allocation</u>. There is no teaching or suggestion in Al-Hilali for a per usage time <u>cost allocation method</u>, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs. Thus, claim 5 is patentably distinct from the cited

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references. Claim 13 is patentably distinct for similar reasons.

Regarding claim 8, Applicant respectfully submits that the cited references, taken individually or in combination, do not teach or suggest a method "wherein the plurality of available cost allocation methods comprises a per processing time cost allocation method" in combination with the remaining features of claim 8 and the base claim 1. In rejecting claim 8, the Final Office Action cites col. 9, lines 10-19 of Al-Hilali. At the cited location, Al-Hilali discloses measuring the usage of various resources but not cost allocation. There is no teaching or suggestion in Al-Hilali for a per processing time cost allocation method, wherein each of the plurality of available cost allocation methods defines a different way of dividing one of the determined costs. Thus, claim 8 is patentably distinct from the cited references. Claim 14 is patentably distinct for similar reasons.
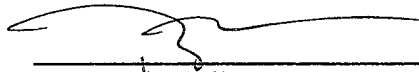
The dependent claims are patentably distinct at least due to their dependence on the independent claims. Because the independent claims have been shown to be patentably distinct, a further discussion of the remaining dependent claims is not necessary at this time. Accordingly, withdrawal of the § 103(a) rejections is respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-14600.

Respectfully submitted,

B. Noël Kivlin
Reg. No. 33,929
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8800
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